IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

CRP.No. 694 of 2007()

AGAINST THE ORDER DT. 13.6.07 IN EA. 13/2006 IN EA.497/02 IN EP. 83/02 IN OS. 334/97 OF PRINCIPAL MUNSIFF COURT-II, KOZHIKODE.

REVN. PETITIONER: PETITIONERS/JUDGMENT DEBTORS:
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1. BABU KURIKKAL, S/O.SAMI KURIKKAL,
EDARATH HOUSE, CHATHMANGALAM P.O.

2. SAMI KURIKKAL, S/O.KANDAN,
EDARUTH HOUSE, CHATHAMANGALAM AMSOM DESOM,
KOZHIKODE DISTRICT.

BY ADV. SRI.M.C.ANTONY

RESPONDENT: RESPONDENT/DECREE HOLDER:

DHANALAKSHMI BANK LTD.,
KOZHIKODE.

BY ADV. SRI.P.JACOB VARGHESE,SC,DHANALAKSHI BAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.694 OF 2007

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Dated this the 4th day of September 2007

O R D E R

This revision petition is preferred with a prayer to set aside the order of the court below in E.A.No.13 of 2006 and restore E.A.No.497 of 2002 in E.P.No.83 of 2002 in O.S.No.334 of 1997.

2. Respondent enters appearance. A perusal of the order would reveal that the judgment debtor has filed an application for setting aside the sale under Order XXI Rule 90 C.P.C. on the ground that the sale is vitiated by irregularity and illegality. Unfortunately the said application was dismissed for default and to restore that E.A. E.A.No.13 of 2006 was filed which also met with the same fate. It is true that there are laches on the part of the petitioners, but the valuable right of a party need not be deprived of without hearing them and no hardship will be caused to the other side by permitting the petitioners to conduct the case on merits.

Therefore I set aside the order passed by the learned Munsiff in E.A.No.13 of 2006 in E.A.No.497 of 2003 in E.P.No.83 of 2002 in O.S.No.334 of 1997 and restore I.A.No.497 of 2003 to file and direct the

court below to dispose of the matter in accordance with law after affording equal opportunities to both sides for conducting the case on merits. The parties are directed to appear before the court below on 16.10.2007.

C.R.P. is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-